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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/214,851	09/09/1999	EDWARD M SELLERS	064658.0129	8120

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EXAMINER

DELACROIX MUIRHEI, CYBILLE

ART UNIT PAPER NUMBER

1614

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/214,851

Applicant(s)

SELLERS ET AL.

Examiner

Cybille Delacroix-Muirheid

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,20,23,24,27,28 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-20, 23-24, 27-28, 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

The following is responsive to Applicant's amendment received Feb. 2, 2004.

Claims 1-18, 21-22, 25-26, 29-38, 42-46 are cancelled. No new claims are added. Claims 19-20, 23, 24, 27-28, 39-41 are currently pending.

The previous rejection of claim 38 under 35 USC 103(a) maintained in the office action mailed Nov. 19, 2003 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

The previous rejection of claims 25-29, 38, 39, 40, 41 under 35 USC 112, paragraph 1, maintained in the office action mailed Nov. 19, 2003 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

The previous objection of claims 29 and 45, set forth at paragraph 3 of the office action mailed Nov. 19, 2003, **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

The previous claim rejections under 35 USC 112, paragraph 2, set forth in paragraphs 4-6 of the office action mailed Nov. 19, 2003 are **withdrawn** in view of Applicant's amendment and the remarks contained therein.

The previous claim rejection under 35 USC 112, paragraph 1, set forth in paragraph 7 of the office action mailed Nov. 19, 2003 **is withdrawn** in view of Applicant's amendment and the remarks contained therein.

Upon further consideration of the remaining pending claims, the Examiner respectfully submits the following new ground of rejection.

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New Ground(s) of Rejection

Claim Rejection(s)—35 USC 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 19-20, 23-24, 27-28, 39-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation “analogs thereof and derivatives thereof” renders the claims vague and indefinite. While Applicant’s specification defines what is meant by “analogs and derivatives” of coumarin and methoxsalen, Applicant’s specification does not define what analogs or derivatives are encompassed by the limitation when applied to the remaining compounds in the claim. Furthermore, the specification does not state the meaning that the phrase “related flavones” is intended to have. Therefore, one of ordinary skill in the art would not be reasonably apprised of the scope of the claimed invention. In other words, the metes and bounds of the patent protection desired are unclear.

Conclusion

Claims 19-20, 23-24, 27-28, 39-41 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is 571-272-0572. The examiner can normally be reached on Mon-Fri from 9:30 to 6:00.

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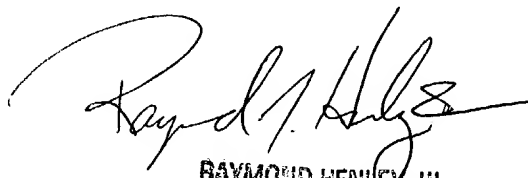
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached at 571-272-0584. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDM



June 2, 2004



RAYMOND HENLEY, III
PRIMARY EXAMINER
GROUP 1000